

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 31 2008 ★

TODD C. BANK,

*Plaintiff,*

-against-

PENTAGROUP FINANCIAL LLC,

*Defendant.*

PM \_\_\_\_\_  
TIME A.M. \_\_\_\_\_

COMPLAINT

**CV08**

**5293**

**JURISDICTION AND VENUE**

1. This Court has jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2).

**PARTIES**

**GLEESON, J.**

3. Plaintiff, Todd C. Bank, is, and was at all relevant times herein, a resident of the County of Queens, State of New York.

**LEVY, M.J.**

4. Defendant, Pentagroup Financial LLC, is, and was at all relevant times herein, a limited liability company organized and existing under the laws of Texas, and maintains its executive offices in Houston, Texas.

**FACTS**

5. Plaintiff is, and was at all relevant times herein, a "consumer," as that term is defined in 15 U.S.C. § 1692a(3).

6. Defendant is, and was at all relevant times herein, a "debt collector," as that term is defined in 15 U.S.C. § 1692a(6).

7. On or about September 19, 2008, Defendant called Plaintiff and played a prerecorded message ("Call No. 1").

8. On or about September 24, 2008, Defendant called Plaintiff and played a prerecorded message ("Call No. 2").

9. On or about September 29, 2008, Defendant called Plaintiff and played a prerecorded message ("Call No. 3").

10. The prerecorded message that was played in Call No. 1 stated, in full, as follows: "This confidential and important message is meant exclusively for. If you are not, please hang up or disconnect now. The law requires that we notify you that this call is from Pentagroup Financial LLC, a debt collection company. This is an attempt to collect a debt and any information obtained will be used for that purpose. Please return this call to Pentagroup Financial LLC at. Again, the number is."

11. The prerecorded message that was played in Call No. 2 stated, in full, as follows: "This confidential and important message is meant exclusively for. If you are not, please hang up or disconnect now. The law requires that we notify you that this call is from Pentagroup Financial LLC, a debt collection company. This is an attempt to collect a debt, and any information obtained will be used for that purpose. Please return this call to Pentagroup Financial LLC at. Again, the number is."

12. The prerecorded message that was played in Call No. 3 stated, in full, as follows: "This confidential and important message is meant exclusively for [name of an individual not recognized by Plaintiff]. If you are not [aforementioned name], please hang up or disconnect now. The law requires that we notify you that this call is from Pentagroup Financial LLC, a debt collection company. This is an attempt to collect a debt, and any information obtained will be used for that purpose. Please return this call to Pentagroup Financial LLC at 866-384-1987. Again, the number is 866-384-1987."

13. During the one-year period prior to the date of this Complaint, Defendant called Plaintiff at least thirty (30) times and left pre-recorded messages that were literally identical, or identical in sum and substance, to the aforementioned Calls.

14. Each of the aforementioned telephone calls constitute a “communication” as that term is defined by 15 U.S.C. 1692a(2).

### **COUNT I**

#### **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692c(b)**

15. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

16. Call Nos. 1, 2, and 3 violated 15 U.S.C. § 1692c(b).

17. As a result of the foregoing, Plaintiff is entitled to damages as provided by 15 U.S.C. § 1692k(a).

### **COUNT II**

#### **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692d**

18. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

19. Call Nos. 1, 2, and 3 violated 15 U.S.C. § 1692d.

20. As a result of the foregoing, Plaintiff is entitled to damages as provided by 15 U.S.C. § 1692k(a).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- (a) Damages, pursuant to 15 U.S.C. § 1692k(a), in the amount of \$1,000.00; and
- (b) Costs, disbursements, and reasonable attorney's fees, and such other and further relief

as this Court deems just and proper.

Dated: December 30, 2008

Yours, etc.,



---

ALBERT RUDGAYZER  
116 East 16th Street  
16th Floor  
New York, New York 10003  
(212) 260-5650  
AR-4335

TODD C. BANK  
119-40 Union Turnpike  
Fourth Floor  
Kew Gardens, New York 11415  
(718) 520-7125  
TB-6825

Attorneys for Plaintiff